

15 JUN 1999



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In re Application of  
EVANS, Ronald M. et al  
U.S. Application No.: 09/155,252  
PCT No.: PCT/US96/05465  
Int. Filing Date: 20 August 1996  
Priority Date: 23 August 1995  
For: SELECTIVE MODULATORS ...

DECISION ON  
  
PETITION  
  
UNDER 37 CFR 1.137(B)

This decision is in response to applicants' petition filed 21 September 1998 requesting to revive the above captioned application.

**BACKGROUND**

On 20 August 1996, applicants filed the above-captioned international application claiming priority to a United States patent application, filed 25 April 1995.

On 25 November 1996, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 27 October 1997.

On 21 September 1998, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the instant petition; a declaration; a small entity statement, and; authorization to charge Deposit Account 07-1895 for the basic national fee and any additional fees which may be required.

**DISCUSSION**

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Paying the basic national fee is the proper reply. The appropriate petition fee of \$660.00 as required by 37 CFR 1.17(m) has been submitted. Applicants' attorney states that application "was unintentionally abandoned on October 25, 1997." This has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, applicants are required to promptly notify this office. A terminal disclaimer is not required in this application.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

### DECISION

In view of the discussion mentioned above, applicants' petition under 37 CFR 1.137(b) is GRANTED.

The declaration submitted is executed by Ronald Mark Evans only. All inventors need to sign the declaration.

The application is being forwarded to the United States Designated/Elected Office for further processing including mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) for failing to provide an oath or declaration.



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